cpsa

COLLEGE OF PHYSICIANS
& SURGEONS OF ALBERTA

November 29, 2021

Dr. Nagase
3110 West 8th Avenue
Vancouver, BC V6K 2C3

CPSA #025622

Dear Dr. Nagase

SUBJECT: Decision regarding the request to suspend your practice permit

On October 29th, I was asked by the CPSA Complaints Director (CD) to consider imposing an interim condition on your practice permit that would require you to withdraw from practice. On review of that request I determined there were three core concerns raised about your practise. Prior to making any decision I requested your response to those concerns by November 19th.

On November 12th you provided a response in the form of an email in which you shared that a "third party has commenced a file with the Edmonton Police this past Friday for criminal extortion, breach of trust, fraud and assault against Kenney, Hinshaw, Verna Yui, AHS and CPSA. Consider yourselves included in this third party's police filing." You went on the state that "The following is my statement to this third party in support of their police filing against the CPSA. You may consider my statement to them as my reply to both Dr. Scott Mcleod's questions in his November 4th letter to me and Dr. Dawn Hartfield's accusations made with prima facie conflict of interest."

Your statement to the Edmonton Police was focused more on reiterating the events that transpired and did little to respond to the three broad categories of potential concern that I asked you to specifically comment on. As a result I responded to your email on November 15th, where I informed you that I would remain open to receiving further input up to November 19th, 2021. I have not received any further communications from you. As a result of the limited response received from you, I must base my decision on the information I have.

The mandate of the College of Physicians and Surgeons of Alberta is first and foremost to protect the public. The use of Section 65 of the Health Professions Act is a serious measure since it imposes a restriction or suspension prior to any finding of unprofessional conduct. We only use this power when we believe the protection of the public requires us to suspend the practice of a physician or impose conditions on their permit.

The following is a brief summary of the information I have considered and the conclusions I have made as a result:

1. **Professional Responsibilities:**
   a. The ability to practice medicine in Alberta is a privilege and not a right. With that privilege comes a set of professional responsibilities that include responding appropriately to complaints and requests for information from the regulatory authority. To date, you have failed to provide any appropriate or substantive response to either the CD or myself as the Registrar. While you did provide us with a copy of your police report, this did not provide a substantive response to the very serious concerns that have been raised.

   b. You have made several statements publicly related to the effectiveness of the COVD-19 vaccination and the effectiveness of medications such as ivermectin for the treatment

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of COVID-19. In my letter of November 4th I specifically asked you to "demonstrate how you have the qualifications and expertise to provide such opinions." As you know, graduating from medical school with an MD is insufficient to practice medicine in Canada. In order for a physician to practice medicine, they must first demonstrate competency in a certain specialty of medicine. This allows a physicians to work within the scope of practice of their area of expertise. For example, plastic surgeons should not provide advice in adult cardiology.

In your response of November 15th, you simply stated the following "I am an Emergency Doctor trained in evidence based medicine. The evidence is contrary to expert opinion. The expert opinion that the college cites contains no declaration that it is free from conflict of interest making that expert opinion invalid." In no way have you proven you have expertise in pharmacology or pharmacologic research. You have no qualifications in virology, infectious diseases, internal medicine, or public health.

Since you have failed to demonstrated you have any qualifications or expertise to make the statements you have made I must therefore conclude you are putting the public at risk by misleading them into making decisions that are not in the best interest of their own health. As stated in the Code of Ethics and Professionalism, "a humble physician acknowledges and is cautious not to overstep the limits of their knowledge and skills".

2. Competence to practice medicine:

I asked you to specifically comment on the memo dated October 18th, 2021 on page 64 of the CD's submission to me. The only response I received from you was the claim that you "cured 3 acutely deteriorating COVID patients."

Despite the unsubstantiated claim that your specific involvement with those patients cured them, you have failed to address the concerns raised throughout the document shared with you on November 4th. The following are some of the concerns I have picked up just from the evidence I have:

a. Your use of antibiotics for the treatment of a viral infection. It's actually fitting that this past week was the World Health Organization's World Antimicrobial Awareness Week. This effort is to specifically address the growing problem of resistance to antibiotics and other antimicrobial medicines because they are being overprescribed. One significant reason for this growing resistance is the use of antibiotics for the treatment of viral infections. Your statement that "no doctor would take away antibiotics for any viral pneumonia" is not an accurate statement because if the person has a purely viral pneumonia, best clinical practice would suggest that it would not be valuable to continue treatment with an antibiotic. Your use of Azithromycin for a viral infection makes me question whether you understand the difference between treating a viral vs a bacterial infection.

b. Statements about steroids and COVID Patients: In one of your public statements you say "The only medication these patients were on were steroids. A medication that will decrease inflammation but increase the chances of bacterial infections by suppressing the immune system. That's right, the only medication the COVID patients at this hospital were on were immune suppressants." You then went on to prescribe Flovent, which is an inhaled steroid. Although it is true that the use of steroids can impact a

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person's immune system, your description of its use as simply being an immunosuppressant is not an accurate representation of its use for treating COVID-19. Since you went on to prescribe an inhaled steroid yourself, I would have to conclude that you either agree that steroid use is beneficial for treating COVD-19 or you didn't know that Flovent was a steroid. Your simplified explanation and use of steroids in the treatment of COVID-19 is, as a minimum, misleading to the public.

c. Statements about the effectiveness of the COVID-19 vaccination. In your reply of November 12th, you state "the vaccines are unsafe and the most dangerous in medical history, ineffective in preventing transmission, and associated with a higher overall mortality when compared with placebo in Pfizer's own trial for EUA approval in the United States." Unfortunately you did not provide the references to support such claims. Even if we simply take into consideration that during the fourth wave of the pandemic the vast majority of ICU patients in Alberta were unvaccinated Albertans, (despite the reality they represented the minority of the public), demonstrated the vaccine was effective in reducing severe illness. That, in addition to the mounting, worldwide evidence of the vaccine's effectiveness in protecting the public from severe illness when compared to not being vaccinated, it's hard to see how you could come to the conclusions that the vaccine is the "most dangerous in medical history." I must therefore conclude that your interpretation of the effectiveness of the COVID-19 vaccine is not accurate or based on facts. However, you continue to share your opinion and put the public at risk of making poor decisions related to their health and the care they receive.

d. Your ability to interpret scientific evidence. One of the most important aspects of staying current in the practice of medicine is the ability to interpret scientific evidence in an unbiased way. That would mean looking at the totality of evidence and not selected pieces of evidence that support your perspective. You have stated publically that "In study after study after study, 0% mortality, 0% mortality, 0% mortality…with ivermectin. And in "Severe" COVID? A 50% reduction in mortality with ivermectin." That actually may be an accurate statement for the studies you have referenced, however that does not represent the totality of the evidence that was taken into consideration by Health Canada, Alberta Health Services, the National Advisory Committee on Immunizations, or the Center for Disease Control and Prevention.

   It's recognized that no physician on their own can remain current with all the evidence being published. Therefore, the medical profession relies on experts to sift through the scientific evidence to develop a consensus on what all the evidence tells us. Recognizing it's hard to stay on top of the evidence, CPSA even helped share the evidence around the risks and benefits of treating COVID-19 with ivermectin by providing guidance to the profession that summarizes the evidence for everyone. That can easily be found on our website along with a joint statement from CPSA and the Alberta College of Pharmacy (ACP) which states "Health Canada is advising Canadians not to use either the veterinary or human drug versions of ivermectin to prevent or treat COVID-19. There is no evidence that ivermectin in either formulation is safe or effective when used for those purposes. The human version of ivermectin is authorized for sale in Canada only for the treatment of parasitic worm infections in people." It then goes on to state "CPSA and ACP direct all physicians and pharmacy professionals to adhere to the Health Canada advisory about ivermectin. Ivermectin must not be prescribed or dispensed, in any form, for the prevention or treatment of COVID-19."

Despite this guidance from Health Canada and your own regulator, you have aggressively promoted the use of ivermectin for the treatment of COVID-19 despite the fact that the medication is not authorized for this purpose. You have also declined to sign an undertaking agreeing to not prescribe of administer ivermectin.

Considering the vast amount of information presented that summarizes the totality of the scientific evidence and your continued reliance on a handful of poorly executed studies, it leads me to conclude that you are not able to appropriately interpret scientific evidence in the best interest of Albertans.

3. **Promotion of misinformation about pandemic management:**
CPSA believes that it's every Albertan's right and responsibility to raise concerns about the health system including CPSA Recent court decisions have supported that right of health care providers to speak publically about their concerns with the health care system. During the pandemic, many physicians have chosen to be involved in public debate on these issues which is appropriate in an open and democratic society. However, physicians who choose to engage in public debate by speaking at public meetings, by giving interviews, by publishing statements on the Internet or elsewhere, by republishing statements of others, or by otherwise engaging in social media posts also need to ensure that they are complying with their professional obligations.

Physicians must appreciate that when they identify themselves as a physician, the public will tend to place great weight on their opinions about public health issues even if a physician has no particular expertise about public health matters. The confidence entrusted by the public in physicians places great responsibilities on physicians when making public pronouncements about the COVID-19 pandemic.

Under the *Health Professions Act*, Section 3(1d) indicates CPSA "must establish, maintain and enforce a code of ethics." As such CPSA has adopted the *Canadian Medical Association (CMA) Code of ethics and Professionalism* as the Code expected for all physicians practicing in Alberta.

Some of the applicable provisions in the *Code of Ethics and Professionalism* that I have considered in this decision include the following:

- *"PRUDENCE: A prudent physician uses clinical and moral reasoning and judgment, considers all relevant knowledge and circumstances, and makes decision carefully, in good conscience, and with due regard for principles of exemplary medical care."*
- *"Commitment to the well-being of the patient….Take all reasonable steps to prevent or minimize harm to the patient."*
- *"Provide opinions consistent with the current and widely accepted views of the profession when interpreting scientific knowledge to the public; clearly indicate when you present an opinion that is contrary to the accepted views of the profession."*
- *"Support the profession's responsibility to act in matters relating to public and population health, health education, environmental determinants of health, legislation affecting public and population health, and judicial testimony."*
- *"A humble physician acknowledges and is cautious not to overstep the limits of their knowledge and skills …"*

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Taking these clauses into consideration, it would be reasonable to expect that physicians who make public pronouncements indicating there is no scientific basis for public health restrictions, vaccination or supporting the use of treatments explicitly restricted by Health Canada, need to explicitly consider whether they have sufficient knowledge and skills to make such determinations. This assessment needs to be undertaken with sensitivity to the fact that members of the public will have limited knowledge of the physician's background and will give credence to the physician's words simply because they are a physician.

In the context of public health, members of the public are considered to be patients. Physicians who urge the public to not comply with COVID-19 directives or undermine the willingness of some members of the public to comply or seek appropriate care, may be viewed as not taking all reasonable steps to prevent or minimize harm to the public.

It would also be reasonable to expect that physicians who make public statements about COVID-19 that are not consistent with current and widely accepted scientific knowledge need to explicitly state that their opinion is contrary to the accepted views of the profession.

Physicians are also expected to support the profession's responsibility to act in matters relating to public and population health, health education and legislation affecting public health.

CPSA has endorsed the Public Statement made by the Federation of Medical Regulatory Authorities of Canada who state:

> *Physicians hold a unique position of trust with the public. They must not make comments or provide advice that encourage the public to act contrary to public health orders and recommendations. Physicians must be guided by the laws, code of ethics and professional conduct, or regulatory standards when offering these opinions.*

Other regulatory bodies in Canada have also made similar statements:

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> *The College is aware and concerned about the increase of misinformation circulating on social media and other platforms regarding physicians who are publicly contradicting public health orders and recommendations. Physicians hold a unique position of trust with the public and have a professional responsibility to not communicate anti-vaccine, anti-masking, anti-distancing and anti-lockdown statements and/or promoting unsupported, unproven treatments for COVID-19. Physicians must not make comments or provide advice that encourages the public to act contrary to public health orders and recommendations. Physicians who put the public at risk may face an investigation by the CPSO and disciplinary action, when warranted. When offering opinions, physicians must be guided by the law, regulatory standards, and the code of ethics and professional conduct. The information shared must not be misleading or deceptive and must be supported by available evidence and science.*

The College of Physicians and Surgeons of BC:

> *The College of Physicians and Surgeons of BC and the First Nations Health Authority stand united and firmly against the spread of misinformation about COVID-19, which is currently circulating on social media and other channels. In recent months, we have become aware of and concerned about reports that some BC physicians*

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are spreading information that contradicts public health orders and guidance. This has included misinformation that promotes anti-vaccine, anti-mask wearing, anti-physical distancing and anti-lockdown stances, as well as COVID-19 treatments that are not supported by widely accepted scientific evidence.

On September 27th 2021, CPSA Council shared their concerns about misinformation with the profession. In a letter to the profession CPSA Council stated "Council and CPSA's leadership team are also very perturbed by a small number of physicians who are spreading misinformation and even prescribing medications when there is no evidence of their benefits in treating COVID-19." "We, as CPSA's Council and leadership, do not believe these practices align with a physician's professional responsibilities to their patients—they are in fact having a direct impact on the fourth wave of the pandemic." "Spreading misinformation, issuing unsubstantiated exemptions or deferrals for vaccinations or masking, using treatments not grounded in evidence, and diverting people from valid prevention or treatment options directly puts patients and the public at risk."

However, over the recent months you have publically commented on the following without providing any substantive evidence:

a. "the vaccines are unsafe and the most dangerous in medical history"
b. "Vaccines are a failure"
c. Ivermectin is a safe and effective treatment
d. You have accused the health system of boosting mortality, creating an ICU crisis and creating a state of emergency.

After reviewing all the statements you have made in the disclosure package, I can only conclude that you have publicly provided information that is not only contrary to what the rest of the profession is providing, but you have not demonstrated you have the training, expertise or qualification to make such statements. You have also failed to indicate that the statements you have made are contrary to the accepted views of the profession. The result of publically sharing information that is contrary to expert opinion without any cautionary comments or qualifications makes it entirely likely that Albertans have been misguided in how to protect themselves from COVID-19 and how to receive appropriate treatment.

Conclusion

After considering all of the evidence presented to me, I conclude that your actions are putting the public at risk. I conclude that you have not demonstrated the clinical competency to care for COVD-19 patients or protect the public from the risks associated with the virus

I therefore believe it is in the best interest of the public to immediately impose the following conditions on your practise until the conclusion of proceedings under Part 4, Professional Conduct, of the Health Professions Act.

1. You are restricted from issuing COVID-19 vaccine exemptions letters

2. You are restricted from issuing mask exemption letters

3. You are restricted from providing care to patients diagnosed with COVID-19 or suspected of having COVID-19

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4. Without limiting the generality of (3), you shall not prescribe and/or administer, in any manner, the prescription medication ivermectin, including human and/or veterinary versions of ivermectin.

5. Notwithstanding this restriction, you are at liberty to prescribe and/or administer ivermectin in the context of an approved clinical study, and any such clinical study must be approved by Alberta Health Services ("AHS").

6. When practicing in Alberta you must ensure the restrictions on your practice are posted at the facility where you are providing services and in any treatment room you use. The statement should clearly say the following: "Dr. Daniel Y. Nagase has restrictions on his practice permit that prevent him from issuing vaccine exemption letters or mask exemption letters and from providing care to patients diagnosed with COVID-19 or suspected of having COVID-19."

7. In addition to these conditions, I believe it's important to address your public comments without impeding your freedom to share your thoughts. Paragraph 41 of the Canadian Medical Association's Code of Ethics and Professionalism requires physicians to:

   Provide opinions consistent with the current and widely accepted views of the profession when interpreting scientific knowledge to the public; clearly indicate when you present an opinion that is contrary to the accepted views of the profession.

   Therefore I am imposing additional conditions on your practice permit that whenever you make a statement in a public gathering or public forum (including electronic social media) concerning:

   a. Your opinion that ivermectin should be used as a treatment for COVID-19 you will include the following statement:

      The Canadian Medical Association's Code of Ethics and Professionalism requires that a physician clearly indicate when they present an opinion that is contrary to the accepted views of the profession. Therefore, I am required by the College of Physicians and Surgeons of Alberta to advise you that the Government of Canada has issued a Public Advisory indicating that ivermectin is not authorized to prevent or treat COVID-19 and may cause serious health problems. In addition, the College of Physicians of Alberta has issued a communique to physicians indicating that high-quality evidence reviews and established international guidelines do NOT recommend ivermectin use for COVID-19.

   b. Your opinion that individuals should not be vaccinated for COVID-19 you will include the following statement:

      The Canadian Medical Association's Code of Ethics and Professionalism requires that a physician clearly indicate when they present an opinion that is contrary to the accepted views of the profession. Therefore, I am required by the College of Physicians and Surgeons of Alberta to advise you that the accepted view of the medical profession is that vaccinations have been shown statistically to save lives and to reduce the severity of COVID-19 symptoms. The accepted view of the medical profession is that eligible

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individuals should participate in a vaccination program unless for a valid religious or medical reason they cannot be vaccinated.

Your practice permit shall include the conditions set out in paragraphs 1 through 7 above and the practice permit conditions will be made public under section 119 of the *Health Professions Act*.

Given the very serious nature of this matter and your limited cooperation with CPSA, I have given careful consideration to imposing a suspension of your practice permit. However, I have concluded that the restrictions set out above will adequately protect the public. This conclusion is based on the assumption that you will ensure full compliance with all the restrictions on your practice permit. These practice conditions come into effect immediately. If there is evidence of non-compliance or any further problematic behaviour, the Complaints Director is free to reapply under s. 65 of the Health Professions Act for further restrictions or a suspension.

Yours truly,

Scott A. McLeod, MD, CCFP, FCFP
Registrar

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CC: Dr. Dawn Hartfield, Assistant Registrar and Complaints Director

Ms. Karen Pirie, Gowling WLG

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